

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

382D0339

HOUSE ENGROSSED NO. **HB1092** - 2/1/00

Introduced by: Representatives Konold, Brown (Jarvis), Crisp, Diedtrich (Elmer), Pummel, Smidt, and Wetz and Senators Madden and Brosz

1 FOR AN ACT ENTITLED, An Act to provide for the regulation of home inspectors.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. Terms used in this Act mean:

4 (1) "Client," any person who engages, or seeks to engage, the services of a home
5 inspector for the purpose of obtaining inspection of and written report upon the
6 condition of a residential building;

7 (2) "Commission," the South Dakota Real Estate Commission;

8 (3) "Home inspector," any person registered or licensed as a home inspector pursuant to
9 the provisions of this Act;

10 (4) "Home inspection," an inspection and written evaluation of all the following
11 components of a residential building: heating system, cooling system, plumbing
12 system, electrical system, structural components, foundation, roof, masonry structure,
13 and exterior and interior components;

14 (5) "Residential building," a structure consisting of not more than four family dwelling
15 units.

16 Section 2. The commission shall issue and renew certificates to licensed and registered home

inspectors pursuant to the provisions of this Act.

Section 3. No person may provide, or hold oneself out as able to provide, a home inspection for compensation unless registered or licensed in accordance with the provisions of this Act. A violation of this section is a Class 1 misdemeanor.

Section 4. An applicant for a license as a home inspector shall file a written application provided by the commission showing that the applicant meets the following requirements:

- (1) Good moral character;
- (2) Successful completion of high school or high school equivalency;
- (3) Employment as a registered home inspector for no less than one year and performance of not less than one hundred home inspections for compensation; and
- (4) Successful completion of a licensing examination approved by the commission.

Section 5. An applicant for registration as a home inspector shall file a written application provided by the commission showing that the applicant meets the following requirements:

- (1) Good moral character;
- (2) Successful completion of high school or high school equivalency;
- (3) Successful completion of an approved course of study of not less than forty hours, as prescribed by the commission in rules promulgated pursuant to chapter 1-26; and
- (4) Successful completion of a registration examination approved by the commission.

Section 6. The commission shall promulgate rules pursuant to chapter 1-26 for licensed and registered home inspectors in the following areas:

- (1) Standards and requirements for prelicense and continuing education, including qualifications of instructors, procedures for granting a certificate of accreditation, notification of a material change in an approved course offering, suspension, revocation, and denial of course approval, certification of attendance, preregistration, and hours required to renew a license or registration;

- (2) A code of ethics and standards of practice;
- (3) Fees for applications, examinations, registration, licensure, and renewals, not to exceed two hundred dollars for application and one hundred dollars for renewal;
- (4) Procedures and qualifications for application, minimum requirements for examination, procedures for the examination and the administration of the examination, the required score for passing the examination, and procedures for replacement of a license;
- (5) Procedures for disciplinary proceedings, including requirements for filing a complaint, dismissal of a complaint, informal and formal resolution of a complaint, formal complaint and answer requirements, final action and review, disqualification of a commission member from a hearing, and authorization for per diem and mileage; and
- (6) Procedures for declaratory rulings, petitions for rules, and contested cases.

Section 7. The provisions of this Act do not apply to any of the following persons:

- (1) Any person who is employed as a code enforcement official by the state or a political subdivision of the state when acting within the scope of that governmental employment;
- (2) Any person regulated by the state as an architect, professional engineer, electrical contractor, or plumber, who is acting within the scope of practice of the person's profession or occupation;
- (3) Any real estate broker or salesperson licensed by the state when acting within the scope of that person's license;
- (4) Any real estate appraiser certified, licensed, or registered by the state when acting within the scope of that person's license;
- (5) Any person engaged as an insurance adjuster, when acting within the scope of that person's profession; or

1 (6) Any manufactured home dealer who is licensed by the state, when acting within the
2 scope of that person's license.

3 Section 8. Upon payment to the commission of a fee and the submission of a written
4 application provided by the commission, the commission may issue a home inspector license to
5 any person who holds a valid license issued by another state or possession of the United States
6 or the District of Columbia which has standards substantially equivalent to those of this state,
7 as determined by the commission.

8 Section 9. During the first three hundred sixty-five days after the effective date of this Act,
9 the commission shall issue to any person, upon application, a home inspector license, if the
10 applicant meets the requirements of subdivisions (1), (2), and (4) of section 4 of this Act and has
11 been engaged in the practice of home inspections for compensation for not less than one year
12 prior to the effective date of this Act and has performed not less than one hundred home
13 inspections for compensation.

14 Section 10. Any license or registration expires on December thirty-first of the year following
15 issuance and may be renewed biennially. An application for renewal shall be filed with the
16 commission no later than November thirtieth of the year of expiration. Any renewal application
17 filed after that date is subject to a late renewal penalty of twenty dollars per month or fraction
18 thereof. However, no late renewal may be filed after June thirtieth of the year following the
19 expiration of the registration or license.

20 Section 11. The commission may suspend, revoke, reprimand, or assess a monetary penalty
21 not to exceed two thousand five hundred dollars, or may provide for a combination or
22 revocation, suspension, reprimand, or monetary penalty, for any violation of this Act or any
23 administrative rule adopted to administer this Act.

24 Section 12. All fees and any fines imposed by the commission shall be paid to the fund of the
25 commission.

1 Section 13. The commission may refuse to grant or may suspend or revoke a home inspector
2 license or registration upon proof, to the satisfaction of the commission, that the holder has:

3 (1) Disclosed any information concerning the results of the home inspection without the
4 approval of a client or the client's representative;

5 (2) Accepted compensation from more than one interested party for the same service
6 without the written consent of all interested parties;

7 (3) Accepted commissions or allowances, directly or indirectly, from other parties dealing
8 with the holder's client in connection with work for which the holder is responsible;
9 or

10 (4) Failed to disclose promptly to a client information about any business interest of the
11 holder which may affect the client in connection with the home inspection.

12 Section 14. This Act is effective on January 1, 2001.

1 **BILL HISTORY**

2 1/15/00 First read in House and referred to Commerce. H.J. 58

3 1/20/00 Scheduled for Committee hearing on this date.

4 1/25/00 Scheduled for Committee hearing on this date.

5 1/25/00 Commerce Do Pass Amended, Passed, AYES 12, NAYS 0. H.J. 221

6 1/27/00 House of Representatives Deferred to another day.

7 1/28/00 House of Representatives Deferred to another day. H.J. 288

8 1/31/00 Motion to Amend, Passed. H.J. 312

9 1/31/00 House of Representatives Do Pass Amended, Passed, AYES 51, NAYS 17. H.J. 312